

ZAPATA vs. MARTINEZ, et al.
1:21-cv-00083-MV-JFR

Monica Garcia
March 31, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SUSIE ZAPATA AND MONICA GARCIA,

Plaintiffs,

v.

Case 1:21-cv-00083-MV-JFR

LEON MARTINEZ, ROBERTA LUCERO-ORTEGA,
ARTHUR SANCHEZ, BERLEEN ESTEVAN,
and SUMMER FOOD SERVICE, LLC,

Defendants.

DEPOSITION OF MONICA GARCIA

March 31, 2022

9:29 a.m.

All Participants Appeared Through Zoon Videoconference

The Deponent Was Located at:
The Law Offices of NM Prison & Jail Project
3800 Osuna Road, NE, Suite 2
Albuquerque, New Mexico

PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE,
this deposition was:

TAKEN BY: LISA ENTRESS PULLEN, ESQ.
ATTORNEY FOR DEFENDANTS BERLEEN ESTEVAN
AND SUMMIT FOOD SERVICE

REPORTED BY: TANYA M. NIMS, RPR, NM CCR #168
WILLIAMS & ASSOCIATES COURT REPORTING, LLC
317 Commercial Street, Northeast
Suite G-101
Albuquerque, New Mexico 87102

Exhibit G

ZAPATA vs. MARTINEZ, et al.

1:21-cv-00083-MV-JFR

Monica Garcia

March 31, 2022

Page 14

1 transferring and breaking and entering.
2 Q. Was there also the domestic violence conviction
3 in 2015?
4 A. Yes.
5 Q. Were you at jail at MDC in 2015 for multiple
6 reasons, domestic violence, possession, and breaking and
7 entering?
8 A. No. It was domestic violence and a careless
9 driving that I was -- for 2015.
10 Q. And for how long were you at MDC for those
11 offenses?
12 A. Roughly three months.
13 Q. During those three months, did you do any work at
14 MDC?
15 A. I was in the program pod. I was doing a ATP
16 program.
17 Q. And what is that?
18 A. It's like for drug -- it's like a drug program.
19 Q. It's like a drug rehabilitation program?
20 A. Yeah. Something like that.
21 Q. Does it actually work though?
22 A. When I got out, like I was clean for a little
23 bit; but I started using again.
24 Q. Okay. So in 2015 you went back to prison or --
25 jail or prison?

Page 15

1 A. Jail. Yes.
2 Q. And the second time in jail in 2015 was the one
3 for the possession and breaking and entering?
4 A. It was for possession and careless driving in
5 2015.
6 Q. And what was the possession charge related to?
7 A. Heroin.
8 Q. And this is where you said you started using
9 again?
10 A. Yes.
11 Q. How long were you at MDC for those charges then?
12 A. Roughly three months.
13 Q. So when you're out of MDC this second time in
14 2015, what happened next as far as did you go to work
15 anywhere?
16 A. No. I started using again.
17 Q. Did you return to a jail or prison after 2015?
18 A. Yes. In 2017.
19 Q. And what happened at that time?
20 A. I was on the run. So for the breaking and
21 entering, possession, and transferring a stolen motor
22 vehicle. And I got caught in Santa Fe. So I was in jail
23 there. And then they transferred me here to Albuquerque.
24 Q. What was your sentence in 2017 supposed to be?
25 A. It was four -- four years. And then they cut it

Page 16

1 in half to two suspended and two years incarceration and
2 prison.
3 Q. Which prison did you go to first in 2017?
4 A. I spent like a month at Western in RDC. Then
5 they transferred me to Springer.
6 Q. And what is the RDC?
7 A. It's like when you first come to prison, it's
8 like all the people coming from their counties or
9 wherever, you stay there and they, you know, check your
10 points to see if you've got enough points to stay at
11 Western. Or if you got minimal points, they'll send you
12 to Springer.
13 Q. And points have to do with what? Do you know?
14 A. Like gang affiliation. Like fights. You know,
15 stuff like that.
16 Q. So you had a few enough points to go to Springer?
17 A. Yes.
18 Q. When you were at Western in 2017, did you hold
19 any job there for that month?
20 A. No. They don't allow you to in RDC.
21 Q. Did you make any grievances when you were at
22 Western for that month in 2017?
23 A. I believe I did.
24 Q. And what was that?
25 A. For them not giving us enough food.

Page 17

1 Q. All right. Was that made by you or did you join
2 with several people to make that complaint?
3 A. I believe I did it myself, but along with other
4 people who did their own as well.
5 Q. Did you -- I had asked you before about when you
6 met Susie Zapata. And I think you told me it was at MDC?
7 A. Yes.
8 Q. And which year was that?
9 A. 2015.
10 Q. And you were in MDC at that time for about three
11 months, right?
12 A. Yes.
13 Q. Did you form a relationship with her at that
14 time?
15 A. More of a friendship, you know? We -- you know,
16 we had a chemistry, but she was in a relationship and I
17 was still using. So we just decided to be friends, you
18 know, even though we wanted more, but.
19 Q. Did you see Susie at Springer at all?
20 A. No.
21 Q. Did you know that she was there when you were?
22 A. At Springer?
23 Q. Yes.
24 A. No, she wasn't there when I was there at
25 Springer. She was already at Western.

ZAPATA vs. MARTINEZ, et al.
1:21-cv-00083-MV-JFR

Monica Garcia
March 31, 2022

<p style="text-align: right;">Page 22</p> <p>1 Q. Any other medical issues that you had that you 2 went for treatment at Western? 3 A. No. 4 Q. At Western, what jobs did you hold? 5 A. I was -- I worked for the unit manager as a 6 painter. I like worked in the yard and in the kitchen. 7 Q. When did you see Susie Zapata first at Western? 8 A. When I got transferred. 9 Q. Were you in the same pod? 10 A. Yeah, we were. 11 Q. I think you told me it was March 2018, right, 12 that you went to Western? 13 A. Correct. Yes. 14 Q. At what point do you consider yourself to be in a 15 relationship with Susie Zapata then? 16 A. That didn't happen until like July 2018. 17 Q. Were you living in the same cell with her at any 18 point? 19 A. The same cell, no. But we lived in the same 20 unit, yes. 21 Q. Do you remember which unit that was? 22 A. It was Unit 3 and Unit 2. 23 MS. MOULTON: Sorry. I missed that, Ms. Garcia. 24 THE DEPONENT: It was Unit 3 and Unit 2. 25 MS. MOULTON: Okay. Thank you.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Healthcare for the Homeless for my bipolar 2 disorder and my Suboxone. 3 Q. And what was the Suboxone for? 4 A. Previous opioid use. I didn't want to relapse. 5 Q. Did you start Suboxone treatment while you were 6 in prison? 7 A. No. 8 Q. So Healthcare for the Homeless, which provider 9 did you see there, which doctor? 10 A. Jennie Glass. 11 Q. Do you still see Dr. Glass? 12 A. Yes. 13 Q. And what do you see her as of today for? 14 A. I see her for the Suboxone and my bipolar 15 disorder and anxiety with PTSD. 16 Q. When's the first time a provider told you that 17 you had anxiety or PTSD? 18 A. Jennie Glass. She was the first. 19 Q. What did you tell Dr. Glass about for that 20 diagnosis? 21 A. I told her like how I was feeling, my mood, you 22 know, being out. Like it was a big change for me. And 23 then I haven't been sober, so, you know? 24 Q. Does Dr. Glass prescribe you anything for anxiety 25 and PTSD?</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. (By Ms. Pullen) Okay. Was the first job you held 2 the unit manager's painter? 3 A. No. That was the -- my last job. My first job 4 was I like worked in the yard. The second job was the 5 kitchen. And my last job was working for the unit 6 manager. 7 Q. When did you leave Western? 8 A. June 2019. 9 Q. Was your conviction time, your sentence fully 10 performed as of June 2019? 11 A. Yes. 12 Q. Okay. Were you on any kind of probation or 13 parole after that? 14 A. Parole for a year and ankle bracelet. 15 Q. Where did you go to after you left Western? 16 A. I went to my parents' house. 17 Q. In Albuquerque? 18 A. Yes. 19 Q. Is that when you started to work for the bag 20 company? 21 A. Yes. That was the end of June 2019. 22 Q. Did you seek any medical care after you left 23 Western from any place? 24 A. Yes. 25 Q. And what was that?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. The gabapentin. 2 Q. How long have you been on gabapentin? 3 A. Maybe about a year, roughly. 4 Q. Do you believe it's been helping you? 5 A. Yes. 6 Q. And how does it help you? 7 A. I'm not as nervous or anxious anymore. 8 Q. Any other treatment for anxiety and PTSD? 9 A. I have my medical marijuana card. 10 Q. Who prescribed that? 11 A. I don't -- I honestly don't know the doctor's 12 name. But I got it at Zia Wellness. 13 Q. And occasionally you use marijuana then? 14 A. At night. Correct. 15 Q. Is that also you said for anxiety and PTSD? 16 A. It's for PTSD, yes. 17 Q. And you believe that's helping you? 18 A. Yes. 19 Q. Any other medications or treatments that you've 20 done other than what we've talked about since getting out 21 of prison? 22 A. I have a thyroid diagnosis as well. 23 Q. And who diagnosed a thyroid issue? 24 A. Dr. Pinon at the UNM cancer center. 25 Q. How did you get to Dr. Pinon? Who referred you?</p>

ZAPATA vs. MARTINEZ, et al.
1:21-cv-00083-MV-JFR

Monica Garcia
March 31, 2022

Page 34

1 have food poisoning, she just nodded her head and said
2 okay and just went and got the shot and gave me the shot
3 real quick. And they sent me back just as fast as I came
4 in.

5 Q. Do you know who it was that you spoke with about
6 that at the medical office?

7 A. I don't. I was like out of it, you know? So I
8 don't remember her name.

9 Q. Okay. And when did you talk with -- is it Art
10 Sanchez, the fire and safety officer?

11 A. Yes. When did I --

12 Q. Go ahead.

13 A. No, go ahead. I was going to say when did I talk
14 to him?

15 Q. Correct.

16 A. I didn't understand. I don't remember the exact
17 date. I just remember we were in the chow hall. He was
18 standing in the doorway, like leaned up against the
19 doorway. And we came out from like where you serve food
20 in the dining. And we told him about the rodent
21 infestation. You know, I remember it was warm outside.
22 Nobody had their jackets on, so.

23 And he told me that the sticky traps was the
24 solution. And the sticky traps honestly weren't doing
25 nothing.

Page 35

1 Q. Okay. So this is in the warmer months of 2018
2 that you have this conversation with Mr. Sanchez?

3 A. Correct.

4 Q. Are there any other times that you talked with
5 Art Sanchez about mice?

6 A. No.

7 Q. Did you ever fill out a grievance?

8 A. Yes.

9 Q. And what was -- when was that?

10 A. I don't remember the exact dates as well. I
11 filled out a few, you know? And I never got no response.

12 Q. Okay. So earlier we had talked about a grievance
13 for not enough food back when you were first at Western
14 for one month. But after, now that you're at Western
15 following your time at Springer, how many grievances did
16 you make from 2018 until you're released in 2019?

17 A. I would say probably about three.

18 Q. And do you know what time period they were made
19 in 2018 and 2019?

20 A. I believe a couple were in the like warmer
21 months, you know, spring maybe. I don't really remember.
22 And one I remember was in the colder months.

23 Q. So for these three grievances that you remember,
24 what was the first one about?

25 A. The rodent infestation. They all were.

Page 36

1 Q. Do you remember any more details you provided
2 other than what you just said?

3 A. I told them that the kitchen was, you know,
4 infested with mice, that we needed like a solution for it.
5 Maybe another -- another one said like how there was mice
6 droppings in the food, like in the dry storage, in the
7 refrigerator.

8 And another one said that there was a dead mouse
9 found in a cooked pan of rice that half of it got already
10 served to the prison.

11 Q. Okay. I want to go through those three
12 grievances. The first one you said was at the kitchen was
13 infested with mice and that you need a solution. And that
14 was in the warmer month, correct, of 2018?

15 A. Yes.

16 Q. Okay. Did you have any response to that
17 grievance?

18 A. No.

19 Q. And where was it that you believed the kitchen
20 was infested with mice in 2018 for this first grievance?

21 A. Well, they would go all over. But I believe like
22 one of the main sources where they were was this -- it
23 wasn't like round like a pipe, it was like more squared
24 and it went from the floor all the way to the ceiling like
25 that. And it was right smack in the middle of the

Page 37

1 kitchen. And that's where they would like go and come
2 from, you know?

3 Q. Was this while you were a dishwasher still?

4 A. Yes. That thing was there the whole time I was
5 in the kitchen.

6 Q. Did you, yourself, see a live mouse come or be
7 around that stack?

8 A. Oh, yeah, all the time. I even killed a couple.

9 Q. Okay. And so then at some point you decided to
10 do the grievance about the mice that you saw in or around
11 the stack?

12 A. Correct.

13 Q. Are you aware that that stack has been removed?

14 A. That's good. That's good.

15 Q. Was it removed while you were still working in
16 the kitchen?

17 A. No, it was not.

18 Q. All right. Did you -- you said the second
19 grievance concerned -- and I'm just paraphrasing because I
20 was trying to write quickly -- you said mice droppings in
21 food, dry storage, and fridge?

22 A. Uh-huh.

23 Q. Was this you said during the warmer months of
24 2018?

25 A. I think that one was in the cold -- in the colder

ZAPATA vs. MARTINEZ, et al.
1:21-cv-00083-MV-JFR

Monica Garcia
March 31, 2022

Page 82

1 **to -- came here to Albuquerque. And --**
2 Q. How long were you in Albuquerque before you were
3 sent to Western?
4 **A. Maybe less than a month.**
5 Q. Okay. And you were at MDC?
6 **A. Correct.**
7 Q. Okay. So how many times have you been in MDC
8 total?
9 **A. Tshh. Honestly, I don't even know.**
10 Q. Well, you were there twice in 2015. Well, you
11 were there before, right?
12 **A. Yes.**
13 Q. Before 2015?
14 **A. Yes.**
15 Q. Okay. All right. So you've been there a
16 multitude of times?
17 **A. Yes. Correct.**
18 Q. As many as ten?
19 **A. Maybe about ten or a little less.**
20 Q. Okay. All right. So how long did you stay --
21 well, let me rephrase the question. It looks as though
22 you were -- you were transferred to Springer in -- well,
23 when were you transferred to Springer, to your
24 recollection? October? Is that what you said?
25 September/October?

Page 83

1 **A. Yeah.**
2 Q. Okay. And it looks as though for sure you were
3 in Springer from October 2nd of 2017 to 3/15 of 2018.
4 Would you agree with that?
5 **A. Correct.**
6 Q. Okay. And is it your testimony that you were
7 transferred back to Western in March of '18 because you
8 were suicidal?
9 **A. Correct.**
10 Q. Okay. When you were at Springer, Ms. Zapata
11 wasn't there at all; is that correct?
12 **A. Yeah. Correct.**
13 Q. Did you communicate at all with her when you were
14 at Springer in 2017?
15 **A. No.**
16 Q. Who were you dating at the time?
17 **A. Jessica Rivera.**
18 Q. Okay. I'm just going through and checking off
19 questions. Sorry.
20 **A. It's okay.**
21 Q. It takes me a little bit to get through this all.
22 So in your answer to Summit's interrogatories,
23 specifically Interrogatory 9, you talked about
24 preparing -- being a special diet cook for part of the
25 time you were working in the kitchen.

Page 84

1 And sitting here today, you don't have -- or do
2 you have any recollection about how long you were a
3 dishwasher and how long you were a diet cook?
4 **A. I don't have any recollection of how long.**
5 Q. Okay. But you believe that you started working
6 in the kitchen in approximately what month? You got there
7 in March.
8 **A. So maybe like April -- end of March, April.**
9 Q. Okay. And you worked there until you believe
10 December or January -- December of 2018?
11 **A. Correct.**
12 Q. Do you recall if you worked in the kitchen in
13 January of 2019?
14 **A. I don't think I did, no.**
15 Q. Okay. All right. You were asked about
16 grievances in your interrogatories and specifically this
17 is answer to Interrogatory No. 12 of Summit's
18 interrogatories. You said, "We all filed informal
19 grievances in the kitchen, 10 to 14 individuals, stating
20 that there was a problem with rodents in the kitchen and
21 how we had to clean up after them and kill them and we had
22 no safety gear to do so." Tell me who those 10 to 14
23 individuals were.
24 **A. I don't remember everybody's names. But it was I**
25 **know Shannon McDevitt was one of them. Susie was one of**

Page 85

1 **them. And like I don't remember their names. They were**
2 **people I didn't really talk to, you know.**
3 Q. Okay. So how can you say and verify that there
4 were 10 or 14 individuals if you don't know who they were?
5 **A. Well, we all got together like in the kitchen,**
6 **you know. And we were telling each other like this isn't**
7 **right, like we need to all file grievances. We need to**
8 **make a change. If we don't do nothing, then nothing's**
9 **going to get done.**
10 **And everybody agreed. They are like, yeah, yeah,**
11 **we'll file a grievance, we'll file a grievance, you know?**
12 Q. But you don't know if they did?
13 **A. Not personally, no, I don't.**
14 Q. And you don't know if Shannon did?
15 **A. No, I don't.**
16 Q. Did she tell you she did?
17 **A. She said she did, yeah.**
18 Q. And any of the other people that you talked in
19 that meeting, you didn't see them submit grievances?
20 **A. No. Because you have to -- there's not like**
21 **grievances in the kitchen that you can actually grab and**
22 **fill out. You have to go back to your unit and ask the CO**
23 **to give you one, you know. So everybody lived in**
24 **different units and on the other side of the prison and --**
25 **you know, so.**